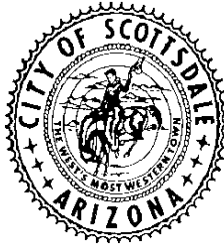


Approved April 28, 2004



**MINUTES  
SCOTTSDALE PLANNING COMMISSION  
KIVA – CITY HALL  
3939 N. DRINKWATER BOULEVARD  
APRIL 14, 2004**

**PRESENT:** David Gulino, Chairman  
Steve Steinberg, Vice Chairman  
David Barnett, Commissioner  
James Heitel, Commissioner  
Eric Hess, Commissioner  
Steven Steinke, Commissioner

**ABSENT:** Jeffery Schwartz, Commissioner

**STAFF:** Pat Boomsma  
Debbie Abele  
Don Meserve  
Raun Keagy  
Kurt Jones  
Bill Verschuren  
Kira Wauwie

**CALL TO ORDER**

The regular meeting of the Scottsdale Planning Commission was called to order by Vice Chairman Steinberg at 5:00 p.m.

**ROLL CALL**

A formal roll call confirmed members present as stated above.

**APPROVED**

**MINUTES APPROVAL**

March 24, 2004  
March 29, 2004

**VICE CHAIRMAN STEINBERG MADE A MOTION TO APPROVE THE MARCH 24, 2004 AND MARCH 29 MINUTES AS PRESENTED. SECOND BY COMMISSIONER HESS.**

**THE MOTION PASSED BY A VOTE OF FIVE (5) TO ZERO (0).**

**INITIATION**

8-UP-2004 (Coronado Park Site) request by City of Scottsdale, applicant, City of Scottsdale and 2 Odanoroc LLC, owners, to initiate a Municipal Use Master Site Plan for a public park to include passive areas and facilities available for professional baseball training activities on 44 +/- acres located southeast of the southeast corner of Miller Road and Thomas Road with Open Space District (O-S) zoning.

**MR. JONES** presented this request as per the project coordination packet. Staff recommends the initiation.

(VICE CHAIRMAN STEINBERG OPENED PUBLIC TESTIMONY.)

**LYLE WERTZ**, 6510 Palm Lane, stated that he has strong feelings about picking any of the sites at Coronado because south Scottsdale has long had the types of establishments that are not desired in the north. He further stated the latest scam is the McDowell Mountain Preserve, which they are asked to spend money on bringing open space to benefit dramatically the land values in the north. He noted that he felt very strongly that the last open space in the south Scottsdale should not be taken away for baseball training activities. This proposal would take away the last affordable course. He inquired about how they are going to pay for this.

(VICE CHAIRMAN STEINBERG CLOSED PUBLIC TESTIMONY.)

**COMMISSIONER HEITEL** noted that this request is only for initiation and they anticipate the neighbors will have important comments.

**COMMISSIONER HEITEL MOVED TO INITIATE THE CORONADO PARK SITE CASE 8-UP-2004. SECOND BY COMMISSIONER HESS.**

**THE MOTION PASSED BY A VOTE OF FIVE (5) TO ZERO (0).**

### **EXPEDITED AGENDA**

20-ZN-2003 (Sugar Bowl Restaurant Historic Property Overlay) request by City of Scottsdale, applicant, Huntress Trust, Jaclyn Krawczyk, Margery Morton, and Fredrick Huntress, owners, to rezone from Central Business District, Downtown Overlay (C-2 DO) to Central Business District, Downtown Overlay, Historic Property (C-2 DO HP) for the Sugar Bowl Restaurant (.13 +/- acre parcel) at 3935 & 4005 N Scottsdale Road and to place the property on the Scottsdale Historic Register.

(PULLED TO REGULAR AGENDA)

19-ZN-2003 (Pink Pony Restaurant Historic Property Overlay) request by City of Scottsdale, applicant, Gwen Briley, owner, to rezone from Central Business District Downtown Overlay (C-2 DO) to Central Business District, Downtown Overlay, Historic Property (C-2 DO HP) for the Pink Pony Restaurant (.2 +/- acre parcel) at 3831 N Scottsdale Road and to place the property on the Scottsdale Historic Register.

(PULLED TO REGULAR AGENDA)

1-UP-2004 (E4 Development Group) request by E4 Group LLC, applicant/owner, for a conditional use permit for a bar on a .98 +/- acre parcel located at 4282 N. Drinkwater Blvd with Downtown/Office Residential Type 2, Planned Block Development, Downtown Overlay (D/OR-2 PBD DO) zoning.

4-UP-2004 (Dirty Dogg Bar use Permit) request by Fire House Management, applicant, MAGs Ham Bun, Inc, owner, for a conditional use permit for a bar in an existing building located at 10409 N Scottsdale Road with Highway Commercial District (C-3) zoning.

5-UP-2004 (Jamaican Blue) request by Jamaican Blue, applicant/owner, for a conditional use permit for a Bar in an existing 5,356+/- square feet building located at 4017 N Scottsdale Road, Suite 104 with Downtown, Retail Specialty Type 1 District, Downtown Overlay (D/RS-1 DO) zoning.

**COMMISSIONER BARNETT MOVED TO FORWARD CASES 1-UP-2004, 4-UP-2004 AND 5-UP-2004 WITH A RECOMMENDATION FOR APPROVAL TO THE CITY COUNCIL SUBJECT THAT THEY MEET THE USE PERMIT CRITERIA AND THE AMENDED STIPULATIONS ON 1-UP-2004 AND 4-UP-2004. SECOND BY COMMISSIONER STEINKE.**

**THE MOTION PASSED BY A VOTE OF FIVE (5) TO ZERO (0).**

### **REGULAR AGENDA**

20-ZN-2003 (Sugar Bowl Resturant Historic Property Overlay) request by City of Scottsdale, applicant, Huntress Trust, Jaclyn Krawczyk, Margery Morton, and Fredrick Huntress, owners, to rezone from Central Business District, Downtown Overlay (C-2 DO) to Central Business District, Downtown Overlay, Historic Property (C-2 DO HP) for the Sugar Bowl Restaurant (.13 +/- acre parcel) at 3935 & 4005 N Scottsdale Road and to place the property on the Scottsdale Historic Register.

**MS. ABELE** presented this case as per the project coordination packet. The Historic Preservation Officer and Staff recommend approval. She reported that the property owners' support the designation.

(Chairman Gulino arrived at 5:25 p.m.)

**COMMISSIONER BARNETT** requested information on the process and why the City is the applicant. He inquired why the Historic Preservation Commission did not have anything to say in the minutes regarding these designations. Ms. Abele provided an overview of the process noting that State Law requires the use of zoning and then the City can formally recognize a property as historically significant. She explained that perhaps the reason there were not a lot of questions and comments by the Historic Preservation Commission in the minutes is because they have been looking at these properties for over three years and are very familiar and they have been brought forward to them at various stages.

Commissioner Barnett inquired if the City has advised the property owners to seek legal counsel regarding how the HP designation would severely restrict what they can and cannot do on their property. Ms. Abele commented that she did not believe it severely restricts their property but they are advised about the consequences of the designation. She further commented that they would advise property owners regarding obtaining legal counsel.

Commissioner Barnett inquired why the Valley Ho project only received HP designation on half of the property. Ms. Abele explained that the entire site did not meet the criteria for designation. She further explained that the ordinance allows them to draw boundaries around the property to coincide with the significant resources.

Commissioner Barnett stated their literature indicates they are looking at having another 24 buildings come through the process. He further stated that it would make a lot of sense to have all of them come through at one time. Ms. Abele stated they would try to bring them together by the year's end.

**COMMISSIONER STEINKE** inquired if the HP designations could be removed. Ms. Abele replied in the affirmative noting that the same process would be used to place them on the list as to take them off the list.

**CHAIRMAN GULINO** stated that he would agree with Commissioner Barnett regarding staffs advising the property owners to receive outside legal advice. Ms. Abele reiterated that staff would ensure that occurs.

**COMMISSIONER STEINKE MOVED TO FORWARD CASE 20-ZN-2003 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL. SECOND BY COMMISSIONER HEITEL.**

**THE MOTION PASSED BY A VOTE OF SIX (6) TO ZERO (0).**

19-ZN-2003 (Pink Pony Restaurant Historic Property Overlay) request by City of Scottsdale, applicant, Gwen Briley, owner, to rezone from Central Business District Downtown Overlay (C-2 DO) to Central Business District, Downtown Overlay, Historic Property (C-2 DO HP) for the Pink Pony Restaurant (.2 +/- acre parcel) at 3831 N Scottsdale Road and to place the property on the Scottsdale Historic Register.

**MS. ABELE** presented this case as per the project coordination packet. The Historic Preservation Officer and Staff recommend approval. She reported that the property owner supports the designation.

**COMMISSIONER BARNETT** stated he would reiterate his comments regarding advising the property owner to seek external legal counsel. He noted in the report it indicates that there have been citizen comments regarding what assistance the city would provide owners with historic designation. He further noted it seems to be an inherent conflict of interest where the city is saying they will give them the HP zoning with the implicit understanding from the owner that they would be given assistance by the city in exchange for allowing the designation. He added he felt the process does not work very well. Ms. Abele explained the HP Ordinance specifically states that the city provides incentives and assistance to the owners of historic properties.

**COMMISSIONER HEITEL MOVED TO FORWARD CASE 19-ZN-2003 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL. SECOND BY VICE CHAIRMAN STEINBERG.**

**THE MOTION PASSED BY A VOTE OF SIX (6) TO ZERO (0).**

1-ZN-2004 (Main Street Residences & Main Street Mews) request by Arizona Investments, applicant, MSR Properties LLC, owner, to rezone from Highway Commercial, Downtown Overlay District (C-3 DO) to Downtown District,

Residential/Hotel Subdistrict Type 2, Planned Block Development Overlay, Downtown Overlay (D-RH-2 PBD DO) with amended development standards on a 4.5 +/- acre parcel located at 6833 & 6875 E Main Street (Southwest corner of Main Street and 69th Street).

**MR. VERSCHUREN** presented this case as per the project coordination packet. Staff recommends approval, subject to the attached stipulations.

**COMMISSIONER HEITEL** stated as a point of clarification, when this case was reviewed by the DR Board there were two members of the Board that strongly recommended that the City do their part to assist in removing the unsightly utility lines between the property line to the south of the condo project. Mr. Verschuren replied that technically that is not part of the development standards but staff would carefully look at what types of programs they have to assist or help. Commissioner Heitel inquired if the Commission had the ability to attach that type of stipulation to a motion for Council consideration. Mr. Verschuren replied in the affirmative.

**JOHN BERRY**, 4800 N. Scottsdale Road, stated to answer Commissioner Heitel's question on the DR Board recommendation for the power lines, his recommendation would be that the Commission include in the motion that Council direct staff to look at funding mechanisms and ways to underground those power lines. They would support that effort but that is not their financial obligation because the power lines are not on their property.

**IRENE CLARY**, Arizont Investments, provided background information on the property. She discussed what they hope to accomplish. She reported the parking for the condominiums will be underground. She further reported some of those parking spaces would be used to meet the parking requirements for the Valley Ho Hotel. She reviewed the citizen outreach that has occurred. She noted that they have received overwhelming positive response for this project.

**VICE CHAIRMAN STEINBERG** inquired if they anticipate any privacy issues with building F and the existing backyards for the condos. Ms. Clary replied in the negative. She explained that that the privacy balconies would be within the complex.

**CHAIRMAN GULINO** requested Ms. Clary walk them through the site plan. Ms. Clary reviewed the site plan. Chairman Gulino requested clarification on the parking. She reviewed the parking plan noting that 175 additional spaces would be for the Valley Ho.

**MR. BERRY** provided additional information on the elevations. He noted that the landscaping is very residential and oriented towards the streets. He further noted that there is a lot of support for this project and they have 185 letters in support.

**COMMISSIONER STEINKE** inquired if the Townhouses were two story. Mr. Berry replied in the affirmative with the option to go to three stories. Commissioner Steinke inquired if they would have elevators. Mr. Berry replied there would be the option to put elevators in each of the units.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY.)

**GERALD PALOZIE**, 3517 N. Hopi Way, spoke in support of this request. He stated that he represents 350 homes west of the project. He further stated that they felt this is a win/win situation for Scottsdale. He commented that this is a class project and that there is nothing else quite like it in Scottsdale.

**MARCUS MORISETTE**, 6840 E. 2<sup>nd</sup> Street, spoke in favor of this request. He stated he represents the properties to the south. He further stated that they are in the process of trying to improve the alleyway between the properties and are applying for matching funds. He remarked with regard to the power poles he was happy to hear they are being discussed because they don't have the funds to take care of that situation. He further remarked they are planning on doing improvements to their property. He concluded they are very supportive of this project and that it would be good for the community and good for Scottsdale as a whole.

**FREDA CHASE**, 3515 N. Navajo Trail, spoke in favor of this request. She stated that she did not doubt that they would approve this project. She further stated that she felt it was an awesome project. She commented that she was excited that this project is coming to their area. She further commented that Scottsdale really needs a project like this. She suggested that a similar project go on the Los Arcos site.

**MICHAEL LEVY**, 3846 N. Pueblo Way, spoke in favor of this request. He stated that he would urge approval of the three measures outlined by city staff because they believe it will be a tremendous asset to the neighborhood and the entire city. It fits the vision that has been approved for the city for the upcoming years. The developer and owners have taken the time and trouble to come and discuss the project with the neighbors. They believe this project would increase the property values within the immediate vicinity and upgrade the neighborhood. He added there has been a tremendous amount of investment within the neighborhood.

**COMMISSIONER HEITEL** stated that he wanted to recognize that this is a great example of neighbors and the developer coming together with a great asset for the city.

**JOHN BARTOLOMEO**, 6748 E. 1<sup>st</sup> Street, spoke in favor of this request. He stated that he lives across the street from this project. He further stated that he

is a new transplant to this area explaining that he moved from Carefree to the downtown Scottsdale to be a part of all the great energy that is taking place. He further explained that he was aware of everything that was going on and made a point to move into this particular area. He noted that he does not have to fill his gas tank as often because he is so close to everything. He concluded that he hopes the Commission would consider his comments.

**SCOTT LYON**, Hotel Valley Ho, 7305 E. Greenway Rd, spoke in favor of this request. He stated this has been a long process and they have worked very closely with the applicant. He explained that this was a competitive process and the reason they chose the applicant was because of the unique concept for row houses. He commented that they have worked with the applicant to come up with an incredible solution for the parking.

**TAMMY BOSSE**, 3417 N. 60<sup>th</sup> Street, spoke in favor of this request. She stated the applicant has worked with the neighbors and listened to their concerns and that is appreciated.

(CHAIRMAN GULINO CLOSED PUBLIC TESTIMONY.)

**MR. BERRY** thanked the neighbors for coming down here tonight and for all of the time they have put into this process. He stated that he felt the Planning Commission should pat themselves on the back. He noted they have heard from people in this area and there was an individual who stated he made a conscience decision to move from Carefree to the downtown noting that is exactly what the vision of downtown is. It has been a long time coming, it is a great thing to behold, and the Commission needs to pat themselves on the back.

**VICE CHAIRMAN STEINBERG MOVED TO FORWARD CASE 1-ZN-2004 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL. SECOND BY COMMISSIONER HESS.**

**COMMISSIONER HEITEL** request the motion be amended to add the wording "They forward on a strong recommendation that the City Council consider funding mechanism to remove the unsightly power lines in this project with city funds."

**VICE CHAIRMAN STEINBERG AND COMMISSIONER HESS** agreed to the amendment to the motion.

**THE MOTION PASSED BY A VOTE OF SIX (6) TO ZERO (0).**

3-TA-2004 request by City of Scottsdale, applicant, for a Text Amendment to amend Ordinance 455 (Zoning Ordinance) Article I., Administration and



Procedures., Section 1.1400 to allow for Administrative penalties for violations of the Zoning Ordinance.

**MR. KEAGY** presented this case as per the project coordination packet. He reviewed the clarifications made to Exhibit A. Staff recommends approval.

**COMMISSIONER BARNETT** stated the collection of the fine was beyond what they are discussing here and the request is for the text amendment. Mr. Keagy replied in the affirmative noting that is not part of the text amendment and that is a procedural thing they are adopting in code enforcement.

Commissioner Barnett stated that with all of the amendments and changes that were discussed he is comfortable with this. He inquired if the \$250.00 was parallel to the HP Designation fine that is \$1,000.00. Mr. Keagy stated it is only parallel if it is going through a civil citation versus an administrative citation.

**COMMISSIONER HEITEL** inquired who is the hearing officer referred to in the narrative. Mr. Keagy replied it would be a contract employee with the City of Scottsdale under his direction.

Commissioner Heitel inquired how staff could give someone like him comfort that they are not giving somebody carte blanche authority to decide how to take away people's tax refunds, lien their properties and do all of these potential draconian directives at the staff level without a lot of oversight. Mr. Keagy replied staff does strive to enforce the code in a consistent manner and they do respond to every complaint that comes in. He reported that 90 percent of the folks voluntarily comply. He further reported that it has become clear that there is a desire to have a stronger level of enforcement. He noted with a process like this there is a certain level of oversight that will be needed.

Commissioner Heitel stated the part that gives him the biggest lack of comfort is that it has been his experience that there is a disconnect in the City as to what constitutes zoning issues and code issues. He further stated his concern is regarding the selective enforcement.

**CHAIRMAN GULINO** stated he would like to reiterate that this change is not taking anything away from the ordinance and what they are doing is adding an additional tool to help efficiently manage or deal with certain violations. Mr. Keagy replied in the affirmative.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY.)

**FRANCIEN RANDALL**, 3614 N. 80<sup>th</sup> Place, spoke in support of this request. She reported that she represents 50 people from their neighborhood watch program. She further reported that they believe there is a serious problem

mostly south of Indian School. She explained part of the problem is that there are not HOAs in this area. She stated she felt at the point someone receives three violations they should be transferred over to civil court. She further stated they are in support of a administrative hearing officer to enforce the fines.

**MICHAEL MERRILL**, 8713 E. Vernon Avenue, spoke in favor of this request. He showed pictures of some areas in his neighborhood that is repeat offenders. He stated that he felt code enforcement needs to be proactive. He further stated that they don't want HOA's but they need better tools for code enforcement.

(CHAIRMAN GULINO CLOSED PUBLIC TESTIMONY.)

**CHAIRMAN GULINO** stated that if someone innocently violates the zoning ordinance they are given a chance to remedy that and learn their lesson without being slapped with a fine. Mr. Keagy replied that is correct.

**COMMISSIONER BARNETT MOVED TO FORWARD CASE 3-TA-2004 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL. SECOND BY COMMISSIONER HESS.**

**THE MOTION PASSED BY A VOTE OF SIX (6) TO ZERO (0).**

#### **WRITTEN COMMUNICATION**

There was no written communication.

#### **ADJOURNMENT**

With no further business to discuss, the regular meeting of the Scottsdale Planning Commission was adjourned at 6:40 p.m.

Respectfully Submitted,

"For the Record " Court Reporters